



December 18, 2000

Ms. Martha G. Sepeda  
City Attorney  
City of Del Rio  
109 West Broadway  
Del Rio, Texas 78840-5527

OR2000-4729

Dear Ms. Sepeda:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 142706.

The City of Del Rio (the "city") received a request for a copy of the city's "Errors and Omissions Policy, including the Declarations Page" and "any insurance policies that would insure the actions of the Mayor and/or City Council members, in their official or individual capacity." You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. You have submitted "several pages of the City's insurance coverage" which are responsive to the request. We have considered the exception you claim and reviewed the submitted information.

The submitted information consists of several pages from the city's insurance policy. Section 552.022(a)(3) of the Government Code makes information in a contract relating to the receipt or expenditure of public or other funds by a governmental body public and not excepted from required disclosure under chapter 552 of the Public Information Act unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(3). Our office has previously concluded that section 552.103 is a discretionary exception. *See* Open Records Decision No. 551 (1990) (statutory predecessor to section 552.103 serves only to protect a governmental body's position in litigation, and does not itself make information confidential). The submitted pages from the city's insurance policy constitute information in a contract, and we do not believe that section 552.103 makes this information expressly confidential under other law. Gov't Code § 552.022. Therefore, the requested information may not be withheld under section 552.103 and must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

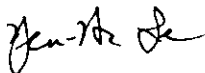
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/er

Ref: ID# 142706

Encl: Submitted documents

cc: Mr. Juan J. Cruz  
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5219 McPherson, Suite 306  
Laredo, Texas 78041  
(w/o enclosures)